
Introduced by Senator PoochigianFebruary 22, 2005

An act to amend Section 11353.6 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 981, as introduced, Poochigian. Drugs: schools: enhancements.

Existing law known as the Juvenile Drug Trafficking and Schoolyard Act of 1988 imposes enhancements of 3, 4, or 5 years upon persons convicted of committing specified controlled substance offenses upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs.

This bill would revise these provisions to rename them as the Juvenile Drug Trafficking and Schoolyard Protection Act of 1988.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11353.6 of the Health and Safety Code
2 is amended to read:

3 11353.6. (a) This section shall be known, and may be cited,
4 as the Juvenile Drug Trafficking and Schoolyard *Protection* Act
5 of 1988.

6 (b) Any person 18 years of age or over who is convicted of a
7 violation of Section 11351.5, 11352, or 11379.6, as those
8 sections apply to paragraph (1) of subdivision (f) of Section

1 11054, or of Section 11351, 11352, or 11379.6, as those sections
2 apply to paragraph (11) of subdivision (c) of Section 11054, or of
3 Section 11378, 11379, or 11379.6, as those sections apply to
4 paragraph (2) of subdivision (d) of Section 11055, or of a
5 conspiracy to commit one of those offenses, where the violation
6 takes place upon the grounds of, or within 1,000 feet of, a public
7 or private elementary, vocational, junior high, or high school
8 during hours that the school is open for classes or school-related
9 programs, or at any time when minors are using the facility
10 where the offense occurs, shall receive an additional punishment
11 of 3, 4, or 5 years at the court's discretion.

12 (c) Any person 18 years of age or older who is convicted of a
13 violation pursuant to subdivision (b) which involves a minor who
14 is at least four years younger than that person, as a full and
15 separately served enhancement to that provided in subdivision
16 (b), shall be punished by imprisonment in the state prison for 3,
17 4, or 5 years at the court's discretion.

18 (d) The additional terms provided in this section shall not be
19 imposed unless the allegation is charged in the accusatory
20 pleading and admitted or found to be true by the trier of fact.

21 (e) The additional terms provided in this section shall be in
22 addition to any other punishment provided by law and shall not
23 be limited by any other provision of law.

24 (f) Notwithstanding any other provision of law, the court may
25 strike the additional punishment for the enhancements provided
26 in this section if it determines that there are circumstances in
27 mitigation of the additional punishment and states on the record
28 its reasons for striking the additional punishment.

29 (g) "Within 1,000 feet of a public or private elementary,
30 vocational, junior high, or high school" means any public area or
31 business establishment where minors are legally permitted to
32 conduct business which is located within 1,000 feet of any public
33 or private elementary, vocational, junior high, or high school.